

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)
)
 v.) 1:11-cr-00156-JAW
)
MATTHEW AYOTTE)

**ORDER DISMISSING WITHOUT PREJUDICE
DEFENDANT'S MOTION TO REDUCE OR ELIMINATE SUPERVISED
RELEASE**

In anticipation of the Court granting, in accordance with the parties' agreement, Defendant's motion for relief pursuant to 28 U.S.C. § 2255, Defendant, proceeding *pro se*, requested that the Court eliminate or reduce the period of supervised release that would be included as part of the parties' proposed sentence. *Letter Mot. Requesting Elimination or Reduction of Supervised Release* (ECF No. 129). Upon review of Defendant's motion, and after consideration of the relevant issues, the Court dismisses without prejudice Defendant's motion.

Following the Court's receipt of Defendant's request, Defendant's counsel advised the Court that Defendant's primary concern was to secure his immediate release from prison, and that he did not want his supervised release motion to delay his release. The Court notes that Defendant's signed waiver of his right to be present for sentencing (ECF No. 127-1), which waiver is dated September 25, 2015, three days after the date of Defendant's motion (September 22), and in which waiver Defendant acknowledges that the parties' sentence recommendation includes three (3) years of supervised release, is consistent with counsel's representation that Defendant's

priority is to obtain his prompt release from prison. Because the Government objects to any sentence that does not include a term of supervised release and because Defendant's entitlement to a reduction in or the elimination of the period of supervised release upon the granting of Defendant's section 2255 motion is uncertain, consideration of Defendant's request before sentencing would undoubtedly delay Defendant's release from prison.

Accordingly, based on Defendant's signed waiver, including the date of the waiver in relation to Defendant's motion, and based on the representations of Defendant's counsel regarding Defendant's primary objective, the Court dismisses Defendant's Motion to Reduce or Eliminate Supervised Release without prejudice to Defendant's right to seek relief from supervised release pursuant to 18 U.S.C. § 3583(e) or any other post-conviction process that is available to him.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 30th day of September, 2015

Defendant (1)

MATTHEW LUCAS AYOTTE
TERMINATED: 11/25/2013

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